

## Article 33.

### Licensing of Agents, Brokers, Limited Representatives, and Adjusters.

#### **§ 58-33-1. Scope.**

This Article governs the qualifications and procedures for the licensing of agents, brokers, limited representatives, adjusters, and motor vehicle damage appraisers. This Article applies to any and all kinds of insurance and insurers under this Chapter. For purposes of this Article, all references to insurance include annuities, unless the context otherwise requires. (1987, c. 629, s. 1; 2001-203, s. 1.)

#### **§ 58-33-5. License required.**

A person shall not sell, solicit, or negotiate insurance in this State unless the person is licensed for that kind of insurance in accordance with this Article. (2001-203, s. 2.)

#### **§ 58-33-10. Definitions.**

As used in this Article, the following definitions apply:

- (1) "Agent" means a person licensed to solicit applications for, or to negotiate a policy of, insurance. A person not duly licensed who solicits or negotiates a policy of insurance on behalf of an insurer is an agent within the intent of this Article, and thereby becomes liable for all the duties, requirements, liabilities and penalties to which an agent of such company is subject, and such company by compensating such person through any of its officers, agents or employees for soliciting policies of insurance shall thereby accept and acknowledge such person as its agent in such transaction.
- (2) "Adjuster" means any individual who, for salary, fee, commission, or other compensation of any nature, investigates or reports to his principal relative to claims arising under insurance contracts other than life or annuity. An attorney at law who adjusts insurance losses from time to time incidental to the practice of his profession or an adjuster of marine losses is not deemed to be an adjuster for purposes of this Article.
- (3) "Broker" means a person who, being a licensed agent, procures insurance for a party other than himself through a duly authorized agent of an insurer that is licensed to do business in this State but for which the broker is not authorized to act as agent. A person not duly licensed who procures insurance for a party other than himself is a broker within the intent of this Article, and thereby becomes liable for all the duties, requirements, liabilities and penalties to which such licensed brokers are subject.
- (4) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity. "Business entity" does not mean a sole proprietorship.
- (4a) "FINRA" means the Financial Industry Regulatory Authority or any successor entity.
- (5) "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

- (6) "Insurance" means any of the kinds of insurance in G.S. 58-7-15.
- (7) "Insurance producer" or "producer" means a person required to be licensed under this Article to sell, solicit, or negotiate insurance. "Insurance producer" or "producer" includes an agent, broker, and limited representative.
- (8) "License" means a document issued by the Commissioner authorizing a person to act as an insurance producer for the kinds of insurance specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.
- (9) "Limited line credit insurance" includes any type of credit insurance written under Article 57 of this Chapter, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation and that the Commissioner determines should be designated a form of limited line credit insurance.
- (10) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.
- (11) "Limited lines insurance" means motor vehicle physical damage insurance and title insurance, or any other kind of insurance that the Commissioner considers necessary to recognize for the purposes of complying with G.S. 58-33-32(f).
- (12) "Limited lines producer" means a person authorized by the Commissioner to sell, solicit, or negotiate limited lines insurance.
- (13) "Limited representative" means a person who is authorized by the Commissioner to solicit or negotiate contracts for the particular kinds of insurance identified in G.S. 58-33-26(g) and which kinds of insurance are restricted in the scope of coverage afforded.
- (14) "Motor vehicle damage appraiser" means an individual who, for salary, fee, commission, or other compensation of any nature, regularly investigates or advises relative to the nature and amount of damage to motor vehicles located in this State or the amount of money deemed necessary to effect repairs thereto and who is not:
  - a. An adjuster licensed to adjust insurance claims in this State;
  - b. An agent for an insurance company who is not required by law to be licensed as an adjuster;
  - c. An attorney at law who is not required by law to be licensed as an adjuster; or
  - d. An individual who, incident to his regular employment in the business of repairing defective or damaged motor vehicles, investigates and advises relative to the nature and amount of motor vehicle damage or the amount of money deemed necessary to effect repairs thereto.
- (15) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, only if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. "Negotiate" does not mean a referral to

a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.

- (16) "Person" means an individual or a business entity, but does not mean a county, city, or other political subdivision of the State of North Carolina.
- (17) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. "Sell" does not mean a referral to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.
- (18) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. "Solicit" does not mean a referral to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.
- (19) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.
- (20) "Uniform Business Entity Application" means the current version of the NAIC Uniform Business Entity Application for resident and nonresident business entities.
- (21) "Uniform Application" means the current version of the NAIC Uniform Application for resident and nonresident producer licensing. (1987, c. 629, s. 1; c. 864, ss. 76, 77; 1987 (Reg. Sess., 1988), c. 975, s. 8; 2001-203, s. 3; 2007-507, s. 2; 2009-566, s. 1.)

#### **§ 58-33-15. Restricted license for overseas military agents.**

Notwithstanding any other provision of this Article, an individual may be licensed by the Commissioner as a foreign military sales agent to represent a life insurance company domiciled in this State, provided the agent represents the insurance company only in a foreign country or territory and either on a United States military installation or with United States military personnel. The Commissioner may, upon request of the insurance company on application forms furnished by the Commissioner and upon payment of the fee specified in G.S. 58-33-125, issue to the applicant a restricted license which will be valid only for the representation of the insurance company in a foreign country or territory and either on a United States military installation or with United States military personnel. The insurance company shall certify to the Commissioner that the applicant has the necessary training to hold himself out as a life insurance agent, and that the insurance company is willing to be bound by the acts of the applicant within the scope of his employment. A restricted license issued under this section shall be renewed annually as provided in G.S. 58-33-25(n). (1987, c. 629, s. 1; 1987 (Reg. Sess., 1988), c. 975, s. 9.)

#### **§ 58-33-17. Limited license for rental car companies.**

- (a) As used in this section:
  - (1) "Limited licensee" means a person authorized to sell certain coverages relating to the rental of motor vehicles pursuant to the provisions of this section and Article 28 of Chapter 66 of the General Statutes.
  - (2) "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental car company.

- (3) "Rental car company" means any person in the business of providing vehicles to the public.
- (4) "Renter" means any person obtaining the use of a vehicle from a rental car company under the terms of a rental agreement.
- (5) "Vehicle" means a motor vehicle of the private passenger type including passenger vans and minivans that are primarily intended for the transport of persons.

(b) The Commissioner may issue to a rental car company, or to a franchisee of a rental car company, that has complied with the requirements of this section, a limited license authorizing the licensee, known as a "limited licensee" for the purpose of this Article, to act as agent, with reference to the kinds of insurance specified in this section, of any insurer authorized to write such kinds of insurance in this State.

(c) The prerequisites for issuance of a limited license under this section are the filing with the Commissioner of the following:

- (1) A written application, signed by an officer of the applicant, for the limited license in such form or forms, and supplements thereto, and containing such information, as the Commissioner may prescribe; and
- (2) A certificate by the insurer that is to be named in such limited license, stating that it has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent for this limited purpose and that the insurer will appoint such applicant to act as the agent in reference to the doing of such kind or kinds of insurance as are permitted by this section, if the limited license applied for is issued by the Commissioner. Such certificate shall be subscribed by an officer or managing agent of such insurer and affirmed as true under the penalties of perjury.

(d) In the event that any provision of this section is violated by a limited licensee, the Commissioner may:

- (1) Revoke or suspend a limited license issued under this section in accordance with the provisions of G.S. 58-33-46; or
- (2) After notice and hearing, impose such other penalties, including suspending the transaction of insurance at specific rental locations where violations of this Article have occurred, as the Commissioner deems to be necessary or convenient to carry out the purposes of this section.

(e) The rental car company or franchisee licensed pursuant to subsection (b) of this section may act as agent for an authorized insurer only in connection with the rental of vehicles and only with respect to the following kinds of insurance:

- (1) Excess liability insurance that provides coverage to the rental car company or franchisee and renters and other authorized drivers of rental vehicles, in excess of the standard liability limits provided by the rental car company in its rental agreement, for liability arising from the negligent operation of the rental vehicle;
- (2) Accident and health insurance that provides coverage to renters and other vehicle occupants for accidental death or dismemberment and for medical expenses resulting from an accident that occurs during the rental period;

- (3) Personal effects insurance that provides coverage to renters and other vehicle occupants for the loss of, or damage to, personal effects that occurs during the rental period; or
  - (4) Any other coverage that the Commissioner may approve as meaningful and appropriate in connection with the rental of vehicles.
- (f) No insurance may be issued pursuant to this section unless:
  - (1) The rental period of the rental agreement does not exceed 30 consecutive days; and
  - (2) At every rental car location where rental car agreements are executed, brochures or other written materials are readily available to the prospective renter that:
    - a. Summarize, clearly and correctly, the material terms of insurance coverage, including the identity of the insurer, offered to renters;
    - b. Disclose that these policies offered by the rental car company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage;
    - c. State that the purchase by the renter of the kinds of insurance specified in this section is not required in order to rent a vehicle;
    - d. Describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and
    - e. Contain any additional information on the price, benefits, exclusions, conditions or other limitations of such policies as the Commissioner may by regulation prescribe; and
  - (3) Evidence of coverage is provided to every renter who elects to purchase such coverage.
- (g) Any limited license issued under this section shall also authorize any salaried employee of the licensee who, pursuant to subsection (h) of this section, is trained to act individually on behalf, and under the supervision, of the licensee with respect to the kinds of insurance specified in this section.
- (h) Each rental car company or franchisee licensed pursuant to this section shall conduct a training program which shall be submitted to the commissioner for approval prior to use and which shall meet the following minimum standards:
  - (1) Each trainee shall receive basic instruction about the kinds of insurance specified in this section offered for purchase by prospective renters of rental vehicles;
  - (2) Each trainee shall be instructed to acknowledge to a prospective renter of a rental vehicle that purchase of any such insurance specified in this section is not required in order for the renter to rent a vehicle; and
  - (3) Each trainee shall be instructed to acknowledge to a prospective renter of a rental vehicle that the renter may have insurance policies that already provide the coverage being offered by the rental car company pursuant to this section.
- (i) Limited licensees acting pursuant to and under the authority of this section shall comply with all applicable provisions of this Article, except that notwithstanding any other provision of this Article, or any rule adopted by the Commissioner, a limited licensee pursuant to this section shall not be required to treat premiums collected from renters purchasing such insurance when renting vehicles as funds received in a fiduciary capacity, provided that:

- (1) The insurer represented by the limited licensee has consented in writing, signed by the insurer's officer, that premiums need not be segregated from funds received by the rental car company on account of vehicle rental; and
  - (2) The charges for insurance coverage are itemized but not billed to the renter separately from the charges for rental vehicles.
- (j) No limited licensee under this section shall advertise, represent, or otherwise hold itself or any of its employees themselves out as licensed insurance agents or brokers. (1991, c. 139, s. 1; 2001-203, s. 4.)

**§ 58-33-18. Limited license for self-service storage companies.**

- (a) As used in this section:
  - (1) "Limited licensee" means a person authorized to sell certain coverages relating to the rental of self-service storage units pursuant to the provisions of this section and Article 39 of Chapter 66 of the General Statutes.
  - (2) "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of a storage unit provided by the owner of a self-service storage facility company.
  - (3) "Self-service storage company" means any person in the business of renting storage units to the public.
  - (4) "Renter" or "occupant" means any person obtaining the use of a storage unit from a self-service storage company under the terms of a rental agreement.
  - (5) "Storage unit" means a semienclosed or fully enclosed area, room, or space that is primarily intended for the storage of personal property and which shall be accessible by the renter of the unit pursuant to the terms of the rental agreement.
- (b) The Commissioner may issue to a self-service storage company, or to a franchisee of a self-service storage company, that has complied with the requirements of this section a limited license authorizing the licensee, known as a "limited licensee" for the purpose of this Article, to act as agent, with reference to the kinds of insurance specified in this section of any insurer authorized to write such kinds of insurance in this State.
- (c) The prerequisites for issuance of a limited license under this section are the filing with the Commissioner of the following:
  - (1) A written application, signed by an officer of the applicant, for the limited license in such form or forms, and supplements thereto, and containing such information as the Commissioner may prescribe; and
  - (2) A certificate by the insurer that is to be named in such limited license, stating that it has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent for this limited purpose and that the insurer will appoint such applicant to act as the agent in reference to the doing of such kind or kinds of insurance as are permitted by this section if the limited license applied for is issued by the Commissioner. Such certificate shall be subscribed by an officer or managing agent of such insurer and affirmed as true under the penalties of perjury.
- (d) In the event that any provision of this section is violated by a limited licensee, the Commissioner may:
  - (1) Revoke or suspend a limited license issued under this section in accordance with the provisions of G.S. 58-33-46; or

- (2) After notice and hearing, impose such other penalties, including suspending the transaction of insurance at specific rental locations where violations of this Article have occurred, as the Commissioner deems to be necessary or convenient to carry out the purposes of this section.
- (e) The self-service storage company or franchisee licensed pursuant to subsection (b) of this section may act as agent for an authorized insurer only in connection with the rental of storage units and only with respect to the following kinds of insurance:
  - (1) Personal effects insurance that provides coverage to renters of storage units at the same facility for the loss of, or damage to, personal effects that occurs at the same facility during the rental period; or
  - (2) Any other coverage that the Commissioner may approve as meaningful and appropriate in connection with the rental of storage units.
- (f) No insurance may be issued pursuant to this section unless:
  - (1) The rental period of the rental agreement does not exceed two years; and
  - (2) At every self-service storage location where self-service storage agreements are executed, brochures or other written materials are readily available to the prospective renter that:
    - a. Summarize, clearly and correctly, the material terms of insurance coverage, including the identity of the insurer, offered to renters;
    - b. Disclose that these policies offered by the self-service storage company may provide a duplication of coverage already provided by a renter's homeowners' insurance policy, personal liability insurance policy, or other source of coverage;
    - c. State that the purchase by the renter of the kinds of insurance specified in this section is not required in order to rent a storage unit;
    - d. Describe the process for filing a claim in the event the renter elects to purchase coverage and in the event of a claim; and
    - e. Contain any additional information on the price, benefits, exclusions, conditions, or other limitations of such policies as the Commissioner may by regulation prescribe; and
  - (3) Evidence of coverage is provided to every renter who elects to purchase such coverage.
- (g) Any limited license issued under this section shall also authorize any employee of the licensee who is trained, pursuant to subsection (h) of this section, to act individually on behalf, and under the supervision, of the licensee with respect to the kinds of insurance specified in this section.
- (h) Each self-service storage company or franchisee licensed pursuant to this section shall conduct a training program which shall be submitted to the Commissioner for approval prior to use and which shall meet the following minimum standards:
  - (1) Each trainee shall receive basic instruction about the kinds of insurance specified in this section offered for purchase by prospective renters of storage units;
  - (2) Each trainee shall be instructed to acknowledge to a prospective renter of a storage unit that purchase of any such insurance specified in this section is not required in order for the renter to rent a storage unit; and
  - (3) Each trainee shall be instructed to acknowledge to a prospective renter of a storage unit that the renter may have insurance policies that already provide the

coverage being offered by the self-service storage company pursuant to this section.

(i) Limited licensees acting pursuant to and under the authority of this section shall comply with all applicable provisions of this Article, except that notwithstanding any other provision of this Article, or any rule adopted by the Commissioner, a limited licensee pursuant to this section shall not be required to treat premiums collected from renters purchasing such insurance when renting storage units as funds received in a fiduciary capacity, provided that:

- (1) The insurer represented by the limited licensee has consented in writing, signed by the insurer's officer, that premiums need not be segregated from funds received by the self-service storage company on account of storage unit rental; and
- (2) The charges for insurance coverage are itemized but not billed to the renter separately from the charges for storage units.

(j) No limited licensee under this section shall advertise, represent, or otherwise hold itself or any of its employees out as licensed insurance agents or brokers. No renter or occupant may be required to obtain insurance under this section as a condition of obtaining a rental agreement for a storage unit. The renter shall be informed that the insurance offered under this section is not required as a condition for obtaining a rental agreement for a storage unit. (2003-290, s. 5.)

#### **§ 58-33-19. Limited lines travel insurance.**

(a) As used in this Article, the following definitions apply:

- (1) Limited lines travel insurance producer. – Any of the following:
  - a. A licensed managing general underwriter.
  - b. A licensed managing general agent or third-party administrator.
  - c. A licensed insurance producer as defined by G.S. 58-33-10(7), including:
    1. A limited lines producer designated by an insurer as the travel insurance supervising entity, as set forth in subsection (h) of this section.
    2. A limited lines producer appointed by an insurer, as set forth in G.S. 58-33-40, who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in Chapter 42A of the General Statutes.
- (2) Offer and disseminate. – Providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other activities that do not require a license and are permitted by the Department.
- (3) Travel insurance. – Insurance coverage for the personal risks incident to planned travel that includes, but is not limited to, the coverages listed in sub-subdivisions a. through d. of this subdivision. Travel insurance does not include major medical plans that provide comprehensive medical protection for travelers with trips lasting six months or longer, including deployed military personnel or those U.S. citizens working overseas as expatriates. [Travel insurance includes:]



- a. Interruption or cancellation of trip or event.
  - b. Loss of baggage or personal effects.
  - c. Damages to accommodations or rental vehicles.
  - d. Sickness, accident, disability, or death occurring during travel.
- (4) Travel retailer. – A business entity that makes, arranges, or offers travel services and may offer and disseminate travel insurance as a service to its customers on behalf of and under the direction of a limited lines travel insurance producer.

(b) An individual or business entity may apply for a limited lines travel insurance producer license by filing with the Department an application in a form and manner prescribed by the Commissioner. If issued, the license authorizes the limited lines travel insurance producer to sell, solicit, or negotiate travel insurance through a licensed insurer.

(c) A travel retailer may offer and disseminate travel insurance under a limited lines travel insurance producer business entity license only if the following conditions are met:

- (1) The limited lines producer or travel retailer provides all of the following to purchasers of travel insurance:
  - a. A description of the material terms or the actual material terms of the insurance coverage.
  - b. A description of the process for filing a claim.
  - c. A description of the review or cancellation process for the travel insurance policy.
  - d. The identity and contact information of the insurer and limited lines travel insurance producer.
- (2) At the time of licensure, the limited lines travel insurance producer shall establish and maintain a register on a form prescribed by the Commissioner of each travel retailer that offers travel insurance on the limited lines travel insurance producer's behalf. The register shall be maintained and updated annually by the limited lines travel insurance producer and shall include the name, address, and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal Tax Identification Number. The limited lines travel insurance producer shall submit the register to the Department upon request. The limited lines producer shall also certify that the travel retailer register complies with 18 U.S.C. § 1033.
- (3) The limited lines travel insurance producer has designated one of its employees who is a licensed individual producer as the person responsible for the limited lines travel insurance producer's compliance with this Chapter and administrative rules adopted by the Commissioner.
- (4) The person designated in subdivision (3) of this subsection and the president, secretary, treasurer, and any other officer or person who directs or controls the limited lines travel insurance producer's insurance operations comply with the fingerprinting requirements applicable to

insurance producers in the resident state of the limited lines travel insurance producer.

- (5) The limited lines travel insurance producer has paid all applicable insurance producer licensing fees as set forth in applicable State law.
- (6) The limited lines travel insurance producer requires each employee and authorized representative of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the Commissioner. The training material shall, at a minimum, contain instructions on the types of insurance offered, ethical sales practices, and required disclosures to prospective customers.
- (7) Limited lines travel insurance producers, and those registered under its license, are exempt from the examination and continuing education requirements under G.S. 58-33-30, 58-33-32, and 58-33-130.

(d) Any travel retailer offering or disseminating travel insurance shall make available to prospective purchasers brochures or other written materials that include all of the following:

- (1) The identity and contact information of the insurer and the limited lines travel insurance producer.
- (2) An explanation that the purchase of travel insurance is not required in order to purchase any other product or service from the travel retailer.
- (3) A disclaimer that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to answer technical questions about the terms and conditions of the insurance offered by the travel retailer or to evaluate the adequacy of the customer's existing insurance coverage.

(e) A travel retailer's employee or authorized representative who is not licensed as a limited lines travel insurance producer shall not do any of the following:

- (1) Evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage.
- (2) Evaluate or provide advice concerning a prospective purchaser's existing insurance coverage.
- (3) Hold himself or herself out as a licensed insurer, licensed producer, or insurance expert.

(f) A travel retailer, whose insurance-related activities and the activities of its employees and authorized representatives are limited to offering or disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this section, is authorized to do so and receive related compensation upon compliance with subdivision (c)(2) of this section by the limited lines travel insurance producer.

(g) Travel insurance may be provided under an individual policy or under a group or master policy.

(h) As the travel insurance supervising entity, the limited lines travel insurance producer is responsible for the acts of the travel retailer and shall use reasonable means to ensure compliance by the travel retailer with this section.

(i) The limited lines travel insurance producer and any travel retailer offering or disseminating travel insurance under the limited lines travel insurance producer license shall be subject to the provisions of Article 63 of this Chapter and to the full enforcement powers of the Commissioner granted by Article 2 of this Chapter. (2013-285, s. 1.)

**§ 58-33-20. Representation.**

(a) Every agent or limited representative who solicits or negotiates an application for insurance of any kind, in any controversy between the insured or his beneficiary and the insurer, is regarded as representing the insurer and not the insured or his beneficiary. This provision does not affect the apparent authority of an agent.

(b) Every broker who solicits an application for insurance of any kind, in any controversy between the insured or his beneficiary and the insurer issuing any policy upon such application, is regarded as representing the insured or his beneficiary and not the insurer; except any insurer that directly or through its agents delivers in this State to any insurance broker a policy of insurance pursuant to the application or request of such broker, acting for an insured other than himself, is deemed to have authorized such broker to receive on its behalf payment of any premium that is due on such policy of insurance at the time of its issuance or delivery. (1987, c. 629, s. 1.)

**§ 58-33-25:** Repealed by Session Laws 2001-203, s. 5, effective July 1, 2002.

**§ 58-33-26. General license requirements.**

(a) No person shall act as or hold himself or herself out to be an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser unless duly licensed.

(b) No agent, broker, or limited representative shall make application for, procure, negotiate for, or place for others, any policies for any kinds of insurance as to which that person is not then qualified and duly licensed.

(c) Effective for new licenses issued before January 1, 2008, an agent or broker may be licensed for the following kinds of insurance:

(1) Life and health insurance, meaning:

- a. Life-insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.
- b. Variable life and variable annuity products-insurance coverage provided under variable life insurance contracts and variable annuities.
- c. Accident and health or sickness-insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.

(2) Property and liability insurance, meaning:

- a. Coverage for the direct or consequential loss or damage to property of every kind.
- b. Coverage against legal liability, including that for death, injury, or disability or damage to real or personal property.

- (3) Personal lines, meaning property and liability insurance coverage sold to individuals and families for primarily noncommercial purposes.
  - (4) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection. These lines of authority shall remain applicable for holders of these licenses until the Commissioner provides applicable replacement licenses under the new lines that will go into effect for new licenses on January 1, 2008. Replacement licenses shall grant authority comparable to the licenses being replaced.
- (c1) Effective for licenses issued on or after January 1, 2008, an agent or broker may be licensed for the following kinds of insurance:
- (1) Accident and health or sickness. – Insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income.
  - (2) Casualty. – Insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property.
  - (3) Limited line insurance.
  - (4) Life. – Insurance coverage on human lives, including benefits in the event of death or dismemberment by accident and benefits for disability income.
  - (5) Medicare supplement insurance and long-term care insurance, as a supplement to a license for the kinds of insurance listed in subdivision (1) of this subsection.
  - (6) Personal lines. – Property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.
  - (7) Property. – Insurance coverage for the direct or consequential loss or damage to property of every kind.
  - (8) Variable life and variable annuity products. – Insurance coverage provided under variable life insurance contracts and variable annuities.
  - (9) Any other kind of insurance permitted under State laws or administrative rules.
- (d) A person holding a license or licenses for the kind or kinds of insurance specified in subsection (c1) of this section may sell, solicit, or negotiate only the kind or kinds of insurance for which that person is licensed.
- (e) A variable life and variable annuity products license authorizes a resident agent to sell, solicit, or negotiate variable contracts if the agent satisfies the Commissioner that the agent has met the FINRA requirements of the Secretary of State of North Carolina.
- (f) An accident and health or sickness license authorizes a resident agent to sell, solicit, or negotiate Medicare supplement and long-term care insurance policies as defined respectively in Articles 54 and 55 of this Chapter, provided that the licensee takes and passes a supplemental written examination for the insurance as provided in G.S. 58-33-30(e) and pays the supplemental registration fee provided in G.S. 58-33-125(c).
- (g) The Commissioner may issue one or more licenses without examination to individuals for limited lines insurance per qualifications and application procedures defined in the administrative rules.
- (h) No licensed agent, broker, or limited representative shall sell, solicit, or negotiate anywhere in the boundaries of this State, or receive or transmit an application or premium of insurance, for a company not licensed to do business in this State, except as provided in G.S. 58-28-5 and Article 21 of this Chapter.

(i) No agent shall place a policy of insurance with any insurer unless the agent has a current appointment as agent for the insurer in accordance with G.S. 58-33-40 or has a valid temporary license issued in accordance with G.S. 58-33-66.

(j) A business entity that sells, solicits, or negotiates insurance shall be licensed in accordance with G.S. 58-33-31(b). Every member of the partnership and every officer, director, stockholder, and employee of the business entity personally engaged in this State in selling, soliciting, or negotiating policies of insurance shall qualify as an individual licensee. A business entity license shall expire on March 31 of each year unless the business entity pays the renewal fee.

(k) The license shall state the name and an identifying number of the licensee, date of issue, kind or kinds of insurance covered by the license, and any other information as the Commissioner deems to be proper.

(l) A license issued to an agent authorizes him to act until his license is otherwise suspended or revoked. Upon the suspension or revocation of a license, the licensee or any person having possession of such license shall return it to the Commissioner.

(m) A license of a broker, limited representative, adjuster, or motor vehicle damage appraiser shall be renewed on April 1 each year, and renewal fees shall be paid. The Commissioner is not required to print licenses for the purpose of renewing licenses. The Commissioner may establish for licenses "staggered" license renewal dates that will apportion renewals throughout each calendar year. If the system of staggered licensing is adopted, the Commissioner may extend the licensure period for some licensees. License renewal fees prescribed by G.S. 58-33-125 shall be prorated to the extent they are commensurate with extensions.

(n) A license as an insurance producer is not required of the following:

- (1) An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this State, except for indirect receipt of proceeds of commissions in the form of salary, benefits, or distributions, and:
  - a. The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance; or
  - b. The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or
  - c. The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.
- (2) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to

mass-marketed property and casualty insurance; where no commission is paid to the person for the service.

- (3) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts.
- (4) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance.
- (5) A person whose activities in this State are limited to advertising without the intent to solicit insurance in this State through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of this State, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this State.
- (6) A person who is not a resident of this State who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.
- (7) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.
- (8) Licensed insurers authorized to write the kinds of insurance described in G.S. 58-7-15(1) through G.S. 58-7-15(3) that do business without the involvement of a licensed agent.
- (9) A person indirectly receiving proceeds of commissions as part of the transfer of insurance business or in the form of retirement or similar benefits.

(o) Nothing in this Article requires an insurer to obtain an insurance producer license. In this subsection, "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(p) An individual shall not simultaneously hold a property, casualty, or personal lines insurance license and an adjuster's license in this State. An individual who holds a property, casualty, or personal lines insurance license may apply for an adjuster license without having to take the adjuster examination in G.S. 58-33-30(e) if the individual applies for the adjuster license within 60 days after surrendering the property, casualty, or personal lines insurance license. An individual who holds an adjuster license may apply for a property and liability insurance license without having to take the property and liability insurance agent examination in G.S. 58-33-30(e) if the individual applies for the property, casualty, or personal lines insurance license within 60

days after surrendering the adjuster license. (2001-203, s. 6; 2007-507, s. 1; 2009-383, s. 1; 2009-566, ss. 2, 3.)

**§ 58-33-27. Claims handling for portable consumer electronic devices.**

(a) As used in this section, the following definitions apply:

- (1) "Automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and system-generated final resolution of claims on insurance policies that cover only portable consumer electronic devices, which system shall meet the following criteria:
  - a. Be utilized only by a licensed adjuster, licensed agent, or supervised individuals operating pursuant to this section.
  - b. Comply with all claims payment requirements of this Chapter.
  - c. Be certified as compliant with this section by a licensed adjuster who is an officer of a licensed business entity under this Chapter.
- (2) "Portable consumer electronic devices" include the following, which must be easily carried or conveyed by hand: smartphones, navigation devices, cellular phones, personal digital assistants, iPads, iPhones, Androids, video games, wireless reading devices, laptops, tablets, netbooks, MP3 players, digital cameras, and other electronic devices that are portable in nature, their accessories, and services related to the use of the device.

(b) No adjuster license is required for an individual who, in connection with insurance covering only portable consumer electronic devices as defined in subdivision (a)(2) of this section, collects claim information from or furnishes claim information to insureds, who conducts data entry, including entering data into an automated claims adjudication system, and who does not exercise any discretion in the disposition of the portable consumer electronic device claim; provided that the individual is supervised by a licensed adjuster or licensed agent and there are no more than 25 individuals who may adjust claims under the supervision of the licensed adjuster or licensed agent. No agent acting as a supervisor pursuant to this section is required to be licensed as an adjuster.

(c) If other property losses occur in conjunction with the loss associated with the portable consumer electronic device, the individual who performs duties as described in G.S. 58-33-10(2) on the total loss, including the loss associated with the portable consumer electronic device, must hold an adjuster's license. (2011-196, s. 8.)

**§ 58-33-30. License requirements.**

The Commissioner shall not issue or continue any license of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser except as follows:

(a) Application. – The applicable license application requirements of G.S. 58-33-31 shall be satisfied.

(b), (c) Repealed by Session Laws 2001-203, s. 7, effective July 1, 2002.

(d) Education and Training. –

- (1) Each applicant must have had special education, training, or experience of sufficient duration and extent reasonably to satisfy the Commissioner that the applicant possesses the competence necessary to fulfill the responsibilities of an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser.
  - (2) All individual applicants for licensing as agents under G.S. 58-33-26(c1)(1), (2), (4), (6), or (7) shall furnish evidence satisfactory to the Commissioner of successful completion of at least 20 hours of instruction for each license, which shall in all cases include the general principles of insurance and any other topics relevant to the license that the Commissioner establishes by administrative rules. Any applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a property or liability or life or health insurance company admitted to do business in this State or a professional insurance association shall be deemed to have satisfied the educational requirements of this subdivision.
  - (3) Each resident applicant for a Medicare supplement and long-term care insurance license shall furnish evidence satisfactory to the Commissioner of successful completion of 10 hours of instruction, which shall in all cases include the principles of Medicare supplement and long-term care insurance and federal and North Carolina law relating to such insurance. A resident applicant who submits satisfactory evidence of having successfully completed an agent training course that has been approved by the Commissioner and that is offered by or under the auspices of a licensed life or health insurer or a professional insurance association satisfies the educational requirements of this subdivision.
- (e) Examination. –
- (1) After completion and filing of the application with the Commissioner, the Commissioner shall require each applicant for license as an agent or an adjuster to take an examination as to the applicant's competence to be licensed. The applicant must take and pass the examination according to requirements prescribed by the Commissioner. This subsection shall not apply to adjusters who adjust only federal crop insurance claims and are certified in accordance with subdivision (2a) of this subsection.
  - (2) The Commissioner may require any licensed agent, adjuster, or motor vehicle damage appraiser to take and successfully pass an examination in writing, testing his competence and qualifications as a condition to the continuance or renewal of his license, if the licensee has been found guilty of any violation of any provision of this Chapter. If an individual fails to pass such an examination, the Commissioner shall revoke all licenses issued in his name and no license shall be issued until such individual has passed an examination as provided in this Article.



- (2a) Adjusters who adjust federal crop insurance claims shall be certified as having passed a proficiency examination approved by the federal Risk Management Agency (RMA) as a condition of obtaining an adjuster's license under this Chapter or another proficiency examination approved by the Commissioner. An adjuster who intends to adjust crop insurance claims shall furnish the Commissioner proof that the adjuster is certified as having passed the required examination pursuant to this section.
- (3) Each examination shall be as the Commissioner prescribes and shall be of sufficient scope to test the applicant's knowledge of:
  - a. The terms and provisions of the policies or contracts of insurance the applicant proposes to effect; or
  - b. The types of claims or losses the applicant proposes to adjust; and
  - c. The duties and responsibilities of the license; and
  - d. The current laws of this State applicable to the license.
- (4) The answers of the applicant to the examination shall be provided by the applicant under the Commissioner's supervision. The Commissioner shall give examinations at such times and places within this State as the Commissioner considers necessary reasonably to serve the convenience of both the Commissioner and applicants: Provided that the Commissioner may contract directly with persons for the processing of examination application forms and for the administration and grading of the examinations required by this section; the Commissioner may charge a reasonable fee in addition to the registration fee charged under G.S. 58-33-125, to offset the cost of the examination contract authorized by this subsection; and such contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall:
  - (i) submit all proposed agreements or contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and
  - (ii) include in all contracts to be awarded by the Commissioner under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost contract for any purpose.
- (5) The Commissioner shall collect in advance the examination and registration fees provided in G.S. 58-33-125 and in subsection (4) of this section. The Commissioner shall make or cause to be made available to all applicants, for a reasonable fee to offset the costs of production, materials that he considers necessary for the applicants' proper preparation for examinations. The Commissioner may contract directly

with publishers and other suppliers for the production of the preparatory materials, and contracts so let by the Commissioner shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subdivision to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subdivision a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost contract for any purpose.

- (6) In addition to the examinations for the kinds of insurance specified in G.S. 58-33-25(c)(1) and (2), before any resident may sell Medicare supplement or long-term care insurance policies defined respectively in Articles 54 and 55 of this Chapter, the resident must take and pass a supplemental written examination according to requirements prescribed by the Commissioner.
  - (7) An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.
- (f) Brokers. –
- (1) Bond. – Prior to issuance of a license as a broker, the applicant shall file with the Commissioner and thereafter, for as long as the license remains in effect, shall keep in force a bond in favor of the State of North Carolina for the use of aggrieved parties in the sum of not less than fifteen thousand dollars (\$15,000), executed by an authorized corporate surety approved by the Commissioner. The aggregate liability of the surety for any and all claims on any such bond shall in no event exceed the sum thereof. The bond shall be conditioned on the accounting by the broker (i) to any person requesting the broker to obtain insurance for moneys or premiums collected in connection therewith, (ii) to any licensed insurer or agent who provides coverage for such person with respect to any such moneys or premiums, and (iii) to any premium finance company or to any association of insurers under any plan or plans for the placement of insurance under the laws of North Carolina which afforded coverage for such person with respect to any such moneys or premiums. No such bond shall be terminated unless at least 30 days' prior written notice thereof is given by the surety to the licensee and the Commissioner. Upon termination of the license for which the bond was in effect, the

Commissioner shall notify the surety within 10 business days. A person required by this subdivision to maintain a bond may, in lieu of that bond, deposit with the Commissioner the equivalent amount in cash, in certificates of deposit issued by banks organized under the laws of the State of North Carolina, or any national bank having its principal office in North Carolina, or securities, which shall be held in accordance with Article 5 of this Chapter. Securities may only be obligations of the United States or of federal agencies listed in G.S. 147-69.1(c)(2) guaranteed by the United States, obligations of the State of North Carolina, or obligations of a city or county of this State. Any proposed deposit of an obligation of a city or county of this State is subject to the prior approval of the Commissioner.

- (2) Other Requirements. – An applicant must hold a valid agent's license at the time of application for the broker's license and throughout the duration of the broker's license. A broker's license shall be issued to cover only those kinds of insurance authorized by his agent's license. Suspension or revocation of the agent's license shall cause immediate revocation of the broker's license.

(g) Denial of License. – If the Commissioner finds that the applicant has not fully met the requirements for licensing, the Commissioner shall refuse to issue the license and shall notify in writing the applicant and the appointing insurer, if any, of the denial, stating the grounds for the denial. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 58-33-46. In order for an applicant to be entitled to a review of the Commissioner's action to determine the reasonableness of the action, the applicant must make a written demand upon the Commissioner for a review no later than 30 days after service of the notification upon the applicant. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing of the outcome of the review. In order for an applicant who disagrees with the outcome of the review to be entitled to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make a written demand upon the Commissioner for a hearing no later than 30 days after service upon the applicant of the notification of the outcome.

(h) Resident-Nonresident Licenses. – The Commissioner shall issue a resident or nonresident license to an agent, broker, limited representative, adjuster, or motor vehicle damage appraiser as follows:

- (1) Resident.

An individual may qualify for a license as a resident if he resides in this State. Any license issued pursuant to an application claiming residency in this State shall be void if the licensee, while holding a resident license in this State, also holds or makes application for a resident license in, or thereafter claims to be a resident of, any other state, or ceases to be a resident of this State; provided, however, if the applicant is a resident of a county in another state, the border of which county is contiguous with

the state line of this State, the applicant may qualify as a resident for licensing purposes in this State.

(2) Nonresident.

- a. An individual may qualify for a license under this Article as a nonresident if he holds a like license in another state or territory of the United States. An individual may qualify for a license as a nonresident motor vehicle damage appraiser or a nonresident adjuster if the applicant's state of residency does not offer such licenses and such applicant meets all other requirements for licensure of a resident. A license issued to a nonresident of this State shall grant the same rights and privileges afforded a resident licensee, except as provided in subsection (i) of this section.
- a1. If a nonresident licensee's license in his or her home state is no longer in good standing for any reason, the nonresident licensee's license issued by the Commissioner shall automatically lapse 30 days after the loss of the nonresident's home state license. Within 30 days following the lapse, the nonresident's lapsed license may be reinstated if (i) the nonresident licensee is otherwise entitled to licensure and (ii) he or she provides proof satisfactory to the Commissioner that his or her home state license has been reinstated or reissued. A lapsed nonresident license may also be reinstated upon proof satisfactory to the Commissioner that the nonresident has relocated to another jurisdiction, obtained a new home state license, and has filed a change of address notice with the Commissioner within 60 days after the issuance of the new home state license. If the lapsed nonresident license is not reinstated as provided herein, the nonresident must submit a new application for licensure to the Commissioner.
- b. Except as provided in G.S. 58-33-32, a nonresident of this State may be licensed without taking an otherwise required written examination if the insurance regulator of the state of the applicant's residence certifies that the applicant has passed a similar written examination or has been a continuous holder, prior to the time such written examination was required, of a license like the license being applied for in this State.
- c. Notwithstanding other provisions of this Article, no new bond shall be required for a nonresident broker if the Commissioner is satisfied that an existing bond covers his insurance business in this State.
- d. Process Against Nonresident Licensees.
  1. Each licensed nonresident agent, broker, adjuster, limited representative, or motor vehicle damage appraiser shall by the act of acquiring such license be deemed to appoint the

Commissioner as his attorney to receive service of legal process issued against the agent, broker, adjuster, limited representative, or motor vehicle damage appraiser in this State upon causes of action arising within this State.

2. The appointment shall be irrevocable for as long as there could be any cause of action against the nonresident arising out of his insurance transactions in this State.
  3. Duplicate copies of such legal process against such nonresident licensee shall be served upon the Commissioner either by a person competent to serve a summons, or through certified or registered mail. At the time of such service the plaintiff shall pay to the Commissioner a fee in the amount set in G.S. 58-16-30, taxable as costs in the action to defray the expense of such service.
  4. Upon receiving such service, the Commissioner or his duly appointed deputy shall within three business days send one of the copies of the process, by registered or certified mail, to the defendant nonresident licensee at his last address of record as filed with the Commissioner.
  5. The Commissioner shall keep a record of the day and hour of service upon him of all such legal process. No proceedings shall be had against the defendant nonresident licensee, and such defendant shall not be required to appear, plead or answer until the expiration of 40 days after the date of service upon the Commissioner.
- e. If the Commissioner revokes or suspends any nonresident's license through a formal proceeding under this Article, he shall promptly notify the appropriate Commissioner of the licensee's residence of such action and of the particulars thereof.

(i) Retaliatory Provision. – Whenever, by the laws or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of this State who are nonresident applicants or licensees of such other state or jurisdiction in addition to, or in excess of, those imposed on nonresidents under this Article, the same such requirements shall be imposed upon such residents of such other state or jurisdiction. This subsection does not apply to fees charged to insurance producers.

(j) Reciprocity Provision. – To the extent that other states that provide for the licensing and regulation of and payment of commissions to agents, limited representatives, or brokers, waive restrictions on the basis of reciprocity with respect to North Carolina licensees applying for or holding nonresident licenses in those states, the same restrictions on licensees from those states applying for or holding North Carolina nonresident licenses shall be waived. (1987, c. 629, s. 1; c. 864, ss. 80, 86; 1987 (Reg. Sess., 1988), c. 975, s. 30; 1989, c. 485, s. 21; c. 645, s. 5; c. 657, s. 1.1; 1989 (Reg. Sess., 1990), c. 941, ss. 3, 7; 1991, c. 212, s. 2; c. 476, s. 3; 1993, c. 409, s. 2; c. 504, ss. 26, 37; 1998-211, s. 18;

2000-122, s. 3; 2001-203, ss. 7, 8, 9, 10, 11, 29; 2005-240, s. 1; 2007-507, s. 3; 2009-566, s. 6(b); 2010-194, s. 7; 2011-196, s. 9; 2011-326, s. 15(g); 2018-120, s. 4.3.)

**§ 58-33-31. Application for license.**

(a) A person applying for a resident insurance producer license shall make application to the Commissioner on the Uniform Application and declare under penalty of denial, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the Commissioner shall find that the individual:

- (1) Is at least 18 years of age.
- (2) Has not committed any act that is a ground for probation, suspension, nonrenewal, or revocation set forth in G.S. 58-33-46.
- (3) Has satisfied any applicable requirements of G.S. 58-33-30(d).
- (4) Has paid the applicable fees set forth in G.S. 58-33-125.
- (5) Has successfully passed any examinations required by G.S. 58-33-30(e).

(b) A business entity selling, soliciting, or negotiating insurance shall obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the Commissioner shall find that:

- (1) The business entity has paid the applicable fees set forth in G.S. 58-33-125.
- (2) The business entity has designated a licensed producer, who is a natural person, responsible for the business entity's compliance with the insurance laws and administrative rules of this State and orders of the Commissioner.

(c) The Commissioner may require any documents reasonably necessary to verify the information contained in an application. (2001-203, s. 12.)

**§ 58-33-32. Interstate reciprocity in producer licensing.**

(a) The purpose of this section is to make North Carolina insurance producer licensing comply with the reciprocity requirements in the federal Gramm-Leach-Bliley Act, Public Law 106-102. This section does not apply to surplus lines licensees in Article 21 of this Chapter, except as provided in subsections (c) and (d) of this section.

(b) Repealed by Session Laws 2001-203, s. 13, effective July 1, 2002.

(c) Unless denied licensure under G.S. 58-33-30 or G.S. 58-33-50, a nonresident person shall receive a nonresident producer license if:

- (1) The person is currently licensed as a resident and in good standing in that person's home state;
- (2) The person has submitted the request for licensure in the form prescribed by the Commissioner and has paid the applicable fees required by G.S. 58-33-125;
- (3) The person has submitted or transmitted to the Commissioner a copy of the application for licensure that the person submitted to that person's home state, or in lieu of the same, a completed Uniform Application or Uniform Business Entity Application; and
- (4) The person's home state awards nonresident producer licenses to residents of this State on a reciprocal basis.

The Commissioner may verify the producer's licensing status through the producer database maintained by the NAIC or affiliates or subsidiaries of the NAIC.

(d) A person licensed as a surplus lines producer in that person's home state shall receive a nonresident surplus lines license under subsection (c) of this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of Article 21 of this Chapter.

(e) A person licensed or registered as a viatical settlement broker or provider, as defined in G.S. 58-58-205, in that person's home state shall receive a nonresident viatical settlement broker or provider license under subsection (c) of this section. Except for the licensure provisions of this section, nothing in this section otherwise amends or supersedes any provision of Part 5 of Article 58 of this Chapter.

(f) A person licensed as a limited line credit insurance producer or other type of limited lines producer in that person's home state may, under subsection (c) of this section, receive a nonresident limited lines producer license granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited lines insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines under G.S. 58-33-26(c)(1), 58-33-26(c)(2), 58-33-26(c)(3), and 58-33-26(c)(4).

(g) An individual who applies for an insurance producer license in this State who was previously licensed for the same kinds of insurance in that individual's home state shall not be required to complete any prelicensing education or examination. This exemption is available only if:

- (1) The applicant is currently licensed in the applicant's home state; or
- (2) The application is received within 90 days after the cancellation of the applicant's previous license and the applicant's home state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or
- (3) The home state's producer database records, maintained by the NAIC or affiliates or subsidiaries of the NAIC, indicate that the producer is or was licensed in good standing for the kind of insurance requested.

A person licensed as an insurance producer in another state who moves to this State and who wants to be licensed as a resident under G.S. 58-33-31 shall apply within 90 days after establishing legal residence.

(h) The Commissioner shall not assess a greater fee for an insurance license or related service to a nonresident producer based solely on the fact that the producer does not reside in this State.

(i) The Commissioner shall waive any license application requirements for a nonresident license applicant with a valid license from the applicant's home state, except the requirements imposed by subsection (c) of this section, if the applicant's home state awards nonresident licenses to residents of this State on the same basis.

(j) A nonresident producer's satisfaction of the nonresident producer's home state's continuing education requirements for licensed insurance producers shall constitute satisfaction of this State's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this State on the same basis.

(k) A producer shall report to the Commissioner any administrative action taken against the producer in another state or by another governmental agency in this State within 30 days after the final disposition of the matter. As used in this subsection, "administrative action" includes

enforcement action taken against the producer by the FINRA. This report shall include a copy of the order or consent order and other information or documents filed in the proceeding necessary to describe the action.

(l) Within 30 days after the initial pretrial hearing date or similar proceeding, a producer shall report to the Commissioner any criminal prosecution of the producer. The report shall include a copy of the initial complaint filed, the order resulting from the hearing or similar proceeding, and any other information or documents filed in the proceeding necessary to describe the prosecution. (2000-122, s. 2; 2001-203, s. 13; 2001-436, s. 4; 2007-507, s. 4; 2009-566, s. 5.)

**§ 58-33-35:** Repealed by Session Laws 2009-566, s. 6(a), effective August 28, 2009.

**§ 58-33-40. Appointment of agents.**

(a) Except as provided in subsection (b) of this section, no individual who holds a valid insurance agent's license issued by the Commissioner shall, either directly or for an insurance agency, solicit, negotiate, or otherwise act as an agent for an insurer by which the individual has not been appointed.

(b) Any insurer authorized to transact business in this State may appoint as its agent any individual who holds a valid agent's license issued by the Commissioner. To appoint an individual as its agent, the appointing insurer shall file, in a format approved by the Commissioner, a notice of appointment within 15 days after the date the first insurance application is submitted. The individual shall be authorized to act as an agent for the appointing insurer for the kinds of insurance for which the insurer is authorized in this State and for which the appointed agent is licensed in this State, unless specifically limited. For purposes of determining the number of appointments for an agent, there shall be one appointment for each kind of insurance for which the appointed agent is licensed in this State, unless specifically limited.

(c) Repealed by Session Laws 2009-566, s. 9, effective August 28, 2009.

(d) Every insurer shall remit in a manner prescribed by the Commissioner the appointment fee specified in G.S. 58-33-125 for each appointed agent.

(e) An appointment shall continue in effect as long as the appointed agent is properly licensed and the appointing insurer is authorized to transact business in this State, unless the appointment is cancelled.

(f) Prior to April 1 of each year, every insurer shall remit in a manner prescribed by the Commissioner the renewal appointment fee specified in G.S. 58-33-125.

(g) Any agent license in effect on February 1, 1988, shall be deemed to be an appointment for the unexpired term of that license.

(h) Repealed by Session Laws 2009-566, s. 9, effective August 28, 2009. (1987, c. 629, s. 1; 2001-203, s. 14; 2009-383, s. 3; 2009-566, ss. 7-9.)

**§ 58-33-45: Repealed by Session Laws 2001-203, s. 15.**

**§ 58-33-46. Suspension, probation, revocation, or nonrenewal of licenses.**

(a) The Commissioner may place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

(1) Providing materially incorrect, misleading, incomplete, or materially untrue information in the license application.



- (2) Violating any insurance law of this or any other state, violating any administrative rule, subpoena, or order of the Commissioner or of another state's insurance regulator, or violating any rule of the FINRA.
  - (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
  - (4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.
  - (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
  - (6) Having been convicted of a felony or a misdemeanor involving dishonesty, a breach of trust, or moral turpitude.
  - (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud.
  - (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere.
  - (9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other jurisdiction for reasons substantially similar to those listed in this subsection.
  - (10) Forging another's name to an application for insurance or to any document related to an insurance transaction.
  - (11) Willfully failing to provide the notification required by subsection (c) of this section.
  - (12) Knowingly accepting brokered insurance business from an individual who is not licensed to broker that kind of insurance.
  - (12a) Soliciting, negotiating, or selling insurance in this State for an unauthorized insurer, regardless of whether the licensee or applicant knew that the insurer was unauthorized. As used in this section, the terms "soliciting", "negotiating", and "selling" shall have the meaning of "solicit", "negotiate", and "sell", respectively, set forth in G.S. 58-33-10.
  - (13) Failing to comply with an administrative or court order imposing a child support obligation, after entry of a final judgment or order finding the violation to have been willful.
  - (14) Failing to pay State income tax or comply with any administrative or court order directing payment of State income tax, after entry of a final judgment or order finding the violation to have been willful.
  - (15) Cheating on an examination for an insurance license or for a prelicensing or continuing education course, including improperly using notes or any other reference material to complete an examination for an insurance license or for a prelicensing or continuing education course.
  - (16) Willfully overinsuring property.
  - (17) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance.
- (b) G.S. 58-2-50 applies to any investigation under this section. G.S. 58-2-70 applies to any person subject to licensure under this Article.
- (c) Any person licensed under this Article shall notify the Commissioner of the commencement of any bankruptcy, insolvency, or receivership proceeding affecting the person

licensed, or upon making an assignment for the benefit of creditors of the person licensed. Each owner, manager, or officer of a business entity that is a licensed person shall be responsible for providing this notification. Any person responsible for notifying the Commissioner shall provide the notice within three business days after the commencement of the proceeding or the making of the assignment.

(d) If the Commissioner refuses to grant a license, or suspends or revokes a license, any appointment of the applicant or licensee shall likewise be revoked. No individual whose license is revoked shall be issued another license without first complying with all requirements of this Article.

(e) No person shall be issued a license or appointment to enter the employment of any other person, which other person is at that time found by the Commissioner to be in violation of any of the insurance laws of this State, or which other person has been in any manner disqualified under any state or federal law to engage in the insurance business.

(f) The Commissioner shall retain the authority to enforce the provisions of, and impose any penalty or remedy authorized by, this Chapter against any person who is under investigation for or charged with a violation of this Chapter even if the person's license or registration has been surrendered or has lapsed by operation of law. (2001-203, s. 16; 2004-166, s. 2; 2007-507, ss. 5, 6; 2009-566, s. 10.)

#### **§ 58-33-48. Criminal history record checks.**

(a) An applicant for an insurance producer license under this Article shall furnish the Commissioner with a complete set of the applicant's fingerprints in a manner prescribed by the Commissioner. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The fingerprints of every applicant shall be forwarded to the State Bureau of Investigation for a search of the applicant's criminal history record file, if any. If warranted, the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. An applicant shall pay the cost of the State and any national criminal history record check of the applicant.

(b) The Commissioner shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

(c) This section does not apply to a person applying for renewal or continuation of a home state insurance producer license or a nonresident insurance producer license. (2009-566, s. 4.)

#### **§ 58-33-50. Notices; loss of residency; duplicate licenses.**

(a) The Commissioner shall notify every appointing insurer about any suspension, revocation, or nonrenewal of a license by the Commissioner and about any surrender of a license by a licensee, whether by consent order or otherwise.

(b) Upon suspension, revocation, nonrenewal, surrender, or reinstatement of any license, the Commissioner shall notify the Central Office of the NAIC.

(c) Any licensee who ceases to maintain his residency in this State shall deliver his insurance license or licenses to the Commissioner by personal delivery or by mail within 30 days after terminating residency.

(d) The Commissioner may issue a duplicate license for any lost, stolen, or destroyed license issued pursuant to this Article upon a written request from the licensee and payment of appropriate fees. (1987, c. 629, s. 1; 1993, c. 504, s. 29.)

**§ 58-33-55: Repealed by Session Laws 2001-203, s. 17.**

**§ 58-33-56. Notification to Commissioner of termination.**

(a) An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer shall notify the Commissioner within 30 days after the effective date of the termination, using a form prescribed by the Commissioner, if the reason for termination is for or related to one of the causes listed in G.S. 58-33-46(a) or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in G.S. 58-33-46(a). Upon the written request of the Commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the producer.

(b) An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason that is not for or related to one of the causes listed in G.S. 58-33-46(a) shall notify the Commissioner within 30 days after the effective date of the termination, using a form prescribed by the Commissioner. Upon written request of the Commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

(c) The insurer or the authorized representative of the insurer shall promptly notify the Commissioner in a form acceptable to the Commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the Commissioner in accordance with subsection (a) of this section had the insurer then known of its existence.

(d) Within 15 days after making the notification required by subsections (a), (b), and (c) of this section, the insurer shall notify the producer using a form prescribed by the Commissioner. If the producer is terminated for cause for any of the reasons listed in G.S. 58-33-46(a), the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(e) Within 30 days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the Commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the Commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (h) of this section.

(f) In the absence of actual malice, neither an insurer, the authorized representative of the insurer, a producer, the Commissioner, an organization of which the Commissioner is a member, nor the respective employees and agents of such persons acting on behalf of such persons shall be subject to civil liability as a result of any statement or information provided pursuant to this section.

(g) In any action brought against a person that may have immunity under subsection (f) of this section for making any statement required by this section or for providing any information relating to any statement that may be requested by the Commissioner, the party bringing the action shall plead specifically in any allegation that subsection (f) of this section does not apply because the person making the statement or providing the information did so with actual malice. Subsections (f) and (g) of this section do not abrogate or modify any existing statutory or common law privileges or immunities.

(h) Notwithstanding any other provision of this Chapter, any documents, materials, or other information in the control or possession of the Commissioner or any organization of which the Commissioner is a member that is (i) furnished by an insurer, producer, or an employee or agent thereof acting on behalf of the insurer or producer under this section, or (ii) obtained by the Commissioner in an investigation under this section shall be confidential by law and privileged, shall not be subject to or public records under G.S. 58-2-100 or Chapter 132 of the General Statutes, shall not be subject to subpoena, and shall not be subject to discovery in any civil action other than a proceeding brought by the Commissioner against a person to whom such documents, materials, or other information relate. However, the Commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's duties. Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any civil action other than a proceeding brought by the Commissioner against a person to whom such documents, materials, or other information relate concerning any such documents, materials, or information.

(i) In order to assist in the performance of the Commissioner's duties under this Article, the Commissioner may:

- (1) Share documents, materials, or other information, including the confidential documents, materials, or information described in this section, with other state, federal, and international regulatory agencies, with the NAIC, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities. The Commissioner may condition such sharing on an agreement by the recipient to maintain the confidentiality and privileged status of the document, material, or other information;
- (2) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from other state, federal, and international regulatory agencies, from the NAIC, its affiliates or subsidiaries, and from state, federal, and international law enforcement authorities, and may agree to maintain the confidential and privileged status of the document, material, or other information received under the laws of the jurisdiction that is the source of the document, material, or information; and

- (3) Enter into agreements governing sharing and use of information consistent with this subsection.

(j) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (i) of this section.

(k) Nothing in this Article prohibits the Commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection under G.S. 58-2-100, to a database or other clearinghouse service maintained by the NAIC, its affiliates, or subsidiaries of the NAIC.

(l) An insurer, the authorized representative of the insurer, or producer that fails to report as required under this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license suspended or revoked and may be fined in accordance with G.S. 58-2-70. (2001-203, s. 18; 2018-120, s. 4.4.)

#### **§ 58-33-60. Countersignature and related laws.**

Subject to the retaliatory provisions of G.S. 58-33-30(i), there shall be no requirement that a licensed resident agent or broker must countersign, solicit, transact, take, accept, deliver, record, or process in any manner an application, policy, contract, or any other form of insurance on behalf of a nonresident agent or broker or an authorized insurer; or share in the payment of commissions, if any, related to such business. (1987, c. 629, s. 1.)

#### **§ 58-33-65: Repealed by Session Laws 2001-203, s. 19.**

#### **§ 58-33-66. Temporary licensing.**

(a) The Commissioner may issue a temporary insurance producer license for a period not to exceed 180 days or longer, for good cause, without requiring an examination if the Commissioner deems that the temporary license is necessary for the servicing of an insurance business in any of the following cases:

- (1) To the spouse or surviving spouse or court-appointed personal representative or guardian of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the transfer of the insurance business owned by the producer, for the recovery or return of the producer to the business, or for the training and licensing of new personnel to operate the producer's business.
- (2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license.
- (3) To the designee of a licensed insurance producer entering active service in the Armed Forces of the United States.
- (4) In any other circumstance where the Commissioner deems that the public interest will be served best by the issuance of this license.

(b) The Commissioner may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The Commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The Commissioner may by order revoke a temporary license if the interest of insureds or the public are endangered. A temporary license terminates upon the transfer of the business.

(c) An individual requesting a temporary license on account of death or disability of an agent or broker shall be licensed to represent only those insurers that had appointed such agent at the time of death or commencement of disability. (2001-203, s. 20; 2011-183, s. 42.)

**§ 58-33-70. Special provisions for adjusters and motor vehicle damage appraisers.**

(a) It shall be unlawful and cause for revocation of license for a licensed adjuster to engage in the practice of law.

(b) On behalf and on request of an insurer by which an agent or limited representative is appointed, the agent or limited representative may from time to time act as an adjuster and investigate and report upon claims without being licensed as an adjuster. No agent or limited representative shall adjust any losses where the agent's or representative's remuneration for the sale of insurance is in any way dependent upon the adjustment of those losses.

(c) Upon the filing of the application for an adjuster's license, the advance payment of the examination fee, and the filing with the Commissioner of a certificate signed by the applicant's employer, the Commissioner may issue a learner's permit authorizing the applicant to act as an adjuster for a learning period of 90 days without a requirement of any other license. Not more than one learner's permit shall ever be issued to one individual. The employer's certificate required by this subsection shall certify that:

- (1) The applicant is an individual of good character.
- (2) The applicant is employed by the signer of the certificate.
- (3) The applicant will operate as a student or learner under the instruction and general supervision of a licensed adjuster.
- (4) The employer will be responsible for the adjustment acts of the applicant during the learning period.

(d) Repealed by Session Laws 1998-211, s. 19, effective November 1, 1998.

(e) The Commissioner may permit an experienced adjuster, who regularly adjusts in another state and who is licensed in the other state (if that state requires a license), to act as an adjuster in this State without a North Carolina license only for an insurance company authorized to do business in this State, for emergency insurance adjustment work, for a period to be determined by the Commissioner, done for an employer who is an adjuster licensed by this State or who is a regular employer of one or more adjusters licensed by this State; provided that the employer shall furnish to the Commissioner a notice in writing immediately upon the beginning of any such emergency insurance adjustment work. As used in this subsection, "emergency insurance adjustment work" includes, but is not limited

to, (i) adjusting of a single loss or losses arising out of an event or catastrophe common to all of those losses or (ii) adjusting losses in any area declared to be a state of emergency or disaster by the Governor under G.S. 166A-19.20 or G.S. 166A-19.21 or by the President of the United States under applicable federal law.

(f) The Commissioner may permit an experienced motor vehicle damage appraiser who is regularly appraising in another state and who is licensed in such other state (if that state requires a license) to act as a motor vehicle damage appraiser in this State without a North Carolina license for emergency motor vehicle damage appraisal work for a period not exceeding 30 days done for an employer who notifies the Commissioner, in writing, at the beginning of the period of emergency appraisal work and who is:

- (1) An insurance adjuster licensed by this State;
- (2) A motor vehicle damage appraiser licensed by this State;
- (3) A regular employer of one or more insurance adjusters licensed by this State; or
- (4) A regular employer of one or more motor vehicle damage appraisers licensed by this State. (1987, c. 629, s. 1; 1998-211, s. 19; 2012-12, s. 2(1); 2013-199, s. 22(c).)

**§ 58-33-75. Twisting with respect to insurance policies; penalties.**

No licensee shall make or issue, or cause to be issued, any written or oral statement that willfully misrepresents or willfully makes an incomplete comparison as to the terms, conditions, or benefits contained in any policy of insurance for the purpose of inducing or attempting to induce a policyholder in any way to terminate or surrender, exchange, or convert any insurance policy. Any person who violates this section is subject to the provisions of G.S. 58-2-70 and G.S. 58-33-46. (1987, c. 629, s. 1; c. 864, s. 75; 2001-203, s. 21.)

**§ 58-33-76. Referral of business to repair source; prohibitions.**

(a) No insurance company, agent, adjuster or appraiser or any person employed to perform their service shall recommend the use of a particular service or source for the repair of property damage without clearly informing the claimant that the claimant is under no obligation to use the recommended repair service.

(b) No insurance company, agent, adjuster or appraiser or any person employed to perform their service shall accept any gratuity or other form of remuneration from a repair service for recommending that repair service to a claimant. Provided, however, discounts agreed to by repair services shall not violate this section.

(c) Any person who violates this section is subject to the provisions of G.S. 58-2-70 and G.S. 58-33-46. (1991, c. 386, s. 1; 1993, c. 525, s. 1; 2001-203, s. 22.)

**§ 58-33-80. Discrimination forbidden.**

No agent or representative of any company doing the business of insurance as defined in G.S. 58-7-15 shall make any discrimination in favor of any person. (1987, c. 629, s. 1.)

**§ 58-33-82. Commissions.**

(a) An insurance company or insurance producer shall not pay a commission, service fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed.

(b) A person shall not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this State if that person is required to be licensed under this Article and is not so licensed.

(c) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this State if the person was required to be licensed under this Article at the time of the sale, solicitation, or negotiation and was so licensed at that time.

(d) Except as provided in subsection (e) of this section, only agents who are duly licensed with appropriate company appointments, licensed brokers, licensed limited lines producers, or licensed limited representatives may accept, directly or indirectly, any commission, fee, or other valuable consideration for the sale, solicitation, or negotiation of insurance.

(e) Commissions, fees, or other valuable consideration for the sale, solicitation, or negotiation of insurance may be assigned or directed to be paid in the following circumstances:

- (1) To a business entity by a person who is an owner, shareholder, member, partner, director, employee, or agent of that business entity.
- (2) To a producer in connection with renewals of insurance business originally sold by or through the licensed person or for other deferred commissions.
- (3) In connection with the indirect receipt of commissions in circumstances in which a license is not required under G.S. 58-33-26(n). (2001-203, s. 23; 2004-199, s. 20(e).)

#### **§ 58-33-83. Assumed names.**

An insurance producer doing business under any name other than the producer's legal name shall notify the Commissioner before using the assumed name. (2001-203, s. 24; 2003-221, s. 13.)

#### **§ 58-33-85. Rebates and charges in excess of premium prohibited; exceptions.**

(a) No insurer, agent, broker or limited representative shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the applicable filing approved by the Commissioner. No insurer, agent, broker or limited representative shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance. No insured named in a policy of insurance, nor any employee of such insured, shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any special favor or advantage or valuable consideration or inducement. Nothing herein contained shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers and limited representatives, nor as prohibiting any participating insurer from distributing to its policyholders dividends, savings or the unused or unabsorbed portion of premiums and premium deposits. As used in this section the word "insurance" includes suretyship and the word "policy" includes bond.

(b) No insurer, agent, broker, or limited representative shall knowingly charge to or demand or receive from an applicant for insurance any money or other consideration in return for the processing of applications or other forms or for the rendering of services associated with a



contract of insurance, which money or other consideration is in addition to the premium for such contract, unless the applicant consents in writing before any services are rendered. This subsection does not apply to the charging or collection of any fees otherwise provided for by law. (1987, c. 629, s. 1; c. 864, ss. 49, 89; 1989, c. 485, s. 52; 1991, c. 720, s. 4; 2001-203, s. 25.)

**§ 58-33-90. Rebate of premiums on credit life and credit accident and health insurance; retention of funds by agent.**

It shall be unlawful for any insurance carrier, or officer, agent or representative of an insurance company writing credit life and credit accident and health insurance, as defined in G.S. 58-58-10 and G.S. 58-51-100, or combination credit life, accident and health, hospitalization and disability insurance in connection with loans, to permit any agent or representative of such company to retain any portion of funds received for the payment of losses incurred, or to be incurred, under such policies of insurance issued by such company, or to pay, allow, permit, give or offer to pay, allow, permit or give, directly, or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium, to any loan agency, insurance agency or broker, or to any creditor of the debtor on whose account the insurance was issued, or to any person, firm or corporation which received a commission or fee in connection with the issuance of such insurance: Provided, that this section shall not prohibit the payment of commissions to a licensed insurance agent or agency or limited representative on the sale of a policy of credit life and credit accident and health insurance, or combination credit life, accident and health, hospitalization and disability insurance in connection with loans.

It shall be unlawful for any agent, agency, broker, limited representative, or insured named in any such policy, or for any loan agency or broker, or any agent, officer or employee of any loan agency or broker to receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of the premium as set out in this section. (1987, c. 629, s. 1.)

**§ 58-33-95. Agents personally liable; representing unlicensed company prohibited; penalty.**

(a) Any person or entity who solicits, negotiates, or sells insurance or acts as a third-party administrator in this State for an unauthorized insurer:

- (1) Is the representative of that insurer and shall be strictly liable for any losses or unpaid claims if an unauthorized insurer fails to pay in full or in part any claim or loss within the provisions of any insurance contract sold, directly or indirectly, by or through that person or entity on behalf of the unauthorized insurer. The liability imposed by this subsection shall be joint and several if more than one person violates this section.
- (2) Shall be guilty of a Class 1 misdemeanor if the person or entity does not know that the insurer is an unauthorized insurer. Each solicitation, negotiation, or sale shall constitute a separate offense.
- (3) Shall be guilty of a Class H felony if the person or entity knew or should have known that the insurer is an unauthorized insurer. Each solicitation, negotiation, or sale shall constitute a separate offense.

(b) A civil action may be filed or a license revocation proceeding may be initiated under this section regardless of whether a criminal action is brought or a criminal conviction is obtained for the act alleged in the civil action or revocation proceeding.

(c) For the purposes of this section, the status of an entity or person as an "unauthorized insurer" shall be determined in accordance with Article 28 of this Chapter and, if applicable, Article 49 of this Chapter.

(d) As used in this section, "third-party administrator" means a person who performs administrative functions, including claims administration and payment, marketing, premium accounting, premium billing, coverage verification, underwriting authority, or certificate issuance in regard to any kind of insurance; but does not include the persons specified in G.S. 58-56-2(5)a. through (5)l. (1987, c. 629, s. 1; 1993, c. 539, s. 457; 1994, Ex. Sess., c. 24, s. 14(c); 2004-166, s. 1; 2006-105, s. 2.8; 2007-305, s. 5.)

**§ 58-33-100. Payment of premium to agent valid; obtaining by fraud a crime.**

(a) Any agent, broker or limited representative who acts for a person other than himself negotiating a contract of insurance is, for the purpose of receiving the premium therefor, the company's agent, whatever conditions or stipulations may be contained in the policy or contract. This subsection does not apply to the Insurance Underwriting Association established under Article 45 of this Chapter or the Joint Underwriting Association established under Article 46 of this Chapter.

(b) Any agent, broker or limited representative knowingly procuring by fraudulent representations payment, or the obligation for the payment, of a premium of insurance, shall be guilty of a Class 1 misdemeanor. (1987, c. 629, s. 1; 1993, c. 539, s. 458; 1994, Ex. Sess., c. 24, s. 14(c); 1997-498, s. 4.)

**§ 58-33-105. False statements in applications for insurance.**

If any agent, examining physician, applicant, or other person shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance, or shall make any such statement for the purpose of obtaining any fee, commission, money or benefit from any company engaged in the business of insurance in this State, he shall be guilty of a Class 1 misdemeanor. This section shall also apply to contracts and certificates issued under Articles 65 through 67 of this Chapter. (1987, c. 629, s. 1; 1993, c. 539, s. 459; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 58-33-110. Agents signing certain blank policies.**

Any agent or limited representative who signs any blank contract or policy of insurance is guilty of a Class 3 misdemeanor and, upon conviction, shall be punished only by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000); provided, however, that transportation ticket policies of accident insurance and baggage insurance policies may be countersigned in blank for issuance only through coin-operated machines, subject to regulations prescribed by the Commissioner. (1987, c. 629, s. 1; 1993, c. 539, s. 460; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 58-33-115. Adjuster acting for unauthorized company.**

If any person shall act as adjuster on a contract made otherwise than as authorized by the laws of this State, or by any insurance company or other person not regularly licensed to do business in this State, or shall adjust or aid in the adjustment, either directly or indirectly, of a claim arising under a contract of insurance not authorized by the laws of the State, he shall be deemed guilty of a Class 1 misdemeanor. (1987, c. 629, s. 1; 1993, c. 539, s. 461; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 58-33-120. Agent, adjuster, etc., acting without a license or violating insurance law.**

If any person shall assume to act either as principal, agent, broker, limited representative, adjuster or motor vehicle damage appraiser without license as is required by law or pretending to be a principal, agent, broker, limited representative, adjuster or licensed motor vehicle damage appraiser, shall solicit, examine or inspect any risk, or shall examine into, adjust, or aid in adjusting any loss, investigate or advise relative to the nature and amount of damages to motor vehicles or the amount necessary to effect repairs thereto, or shall receive, collect, or transmit any premium of insurance, or shall do any other act in the soliciting, making or executing any contract of insurance of any kind otherwise than the law permits, or as principal or agent shall violate any provision of law contained in Articles 1 through 64 of this Chapter, the punishment for which is not elsewhere provided for, he shall be deemed guilty of a Class 1 misdemeanor. (1987, c. 629, s. 1; 1987 (Reg. Sess., 1988), c. 975, s. 11; 1993, c. 539, s. 462; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 58-33-125. Fees.**

(a) The following table indicates the annual fees that are required for the respective licenses issued, renewed, or cancelled under this Article and Article 21 of this Chapter:

Adjuster.....	\$75.00
Adjuster, crop hail only .....	20.00
Agent appointment cancellation (paid by insurer) .....	10.00
Agent appointment, individual .....	10.00
Agent appointment, Medicare supplement and long-term care, individual .....	10.00
Agent, overseas military .....	20.00
Broker, nonresident .....	50.00
Broker, resident .....	50.00
Business entity .....	100.00
Limited representative .....	20.00
Limited representative cancellation (paid by insurer) .....	10.00
Motor vehicle damage appraiser.....	75.00
Surplus lines licensee, corporate .....	100.00
Surplus lines licensee, individual .....	50.00

(b) Whenever a temporary license is issued under this Article, the fee shall be at the same rate as provided in subsection (a) of this section; and any amounts so paid for a temporary license may be credited against the fee required for an appointment by the sponsoring company.

(c) Any person who is not licensed and who is required by law or administrative rule to secure a license shall, upon application for licensing, pay to the Commissioner a fee of fifty dollars (\$50.00). If additional licensing for other kinds of insurance is requested, a fee of fifty dollars (\$50.00) shall be paid to the Commissioner upon application for licensing for each additional kind of insurance.

In addition to the fees prescribed by this subsection, any person applying for a supplemental license to sell Medicare supplement and long-term care insurance policies

shall pay an additional fee of fifty dollars (\$50.00) upon application for licensing for those kinds of insurance.

(d) The requirement for an examination, prelicensing education, continuing education, or a registration fee does not apply to agents for domestic farmers' mutual assessment fire insurance companies or associations who solicit and sell only those kinds of insurance specified in G.S. 58-7-75(5)d for those companies or associations.

(e) A resident licensee may obtain a duplicate photo-bearing license at times and places within this State that the Commissioner considers necessary and reasonable to serve the convenience of both the Commissioner and the licensee. The Commissioner may contract directly with persons for processing of duplicate photo-bearing licenses, and the contract shall not be subject to Article 3 of Chapter 143 of the General Statutes. The Commissioner may charge a reasonable fee for duplicating a photo-bearing license in an amount that offsets the costs to the Department of duplicating the license, including costs associated with any contract entered into pursuant to this subsection. However, the Commissioner shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose.

(f) Repealed by Session Laws 2007-507, s. 7, effective January 1, 2008, and applicable to fees or charges due, and actions occurring, on or after that date.

(g) All fees prescribed by this section are nonrefundable. The fees in subsection (a) of this section are in lieu of any other license fees. The fee for an individual agent appointment under subsection (a) of this section applies to each license.

(h) Fees paid by an insurer on behalf of a person who is licensed or appointed to represent the insurer are payable to the Commissioner when billed. Billing of insurers for renewal fees must be on an annual basis. The frequency for billing insurers for other licensing and appointment fees is determined by the Commissioner and may be daily, monthly, or quarterly. An electronic payment made through the NAIC or an affiliate of NAIC is considered a payment to the Commissioner. (1987, c. 629, s. 1; c. 864, ss. 84, 85; 1989 (Reg. Sess., 1990), c. 941, ss. 4-5; c. 1021, s. 9; c. 1069, s. 14; 1991, c. 476, s. 3; c. 721, s. 7; 1991 (Reg. Sess., 1992), c. 837, s. 3; 2000-122, s. 1; 2007-507, s. 7; 2008-107, s. 29.10(a); 2010-194, s. 8; 2011-326, s. 15(h).)

### **§ 58-33-130. Continuing education program for licensees.**

(a) The Commissioner may adopt rules to provide for a program of continuing education requirements for the purpose of enhancing the professional competence and professional responsibility of adjusters and motor vehicle damage appraisers. The rules may include criteria for:

- (1) The content of continuing education courses;
- (2) Accreditation of continuing education sponsors and programs;
- (3) Accreditation of videotape or other audiovisual programs;
- (4) Computation of credit;
- (5) Special cases and exemptions;
- (6) General compliance procedures; and
- (7) Sanctions for noncompliance.

The Commissioner may contract directly with persons for the administration of the program provided for by this section, and those contracts shall not be subject to Article 3 of Chapter 143 of the General Statutes. However, the Commissioner shall: (i) submit all proposed contracts for supplies, materials, printing, equipment, and contractual services that exceed one million dollars (\$1,000,000) authorized by this subsection to the Attorney General or the Attorney General's designee for review as provided in G.S. 114-8.3; and (ii) include in all contracts to be awarded by the Commissioner under this subsection a standard clause which provides that the State Auditor and internal auditors of the Commissioner may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Commissioner shall not award a cost plus percentage of cost agreement or contract for any purpose. The Commissioner may charge a reasonable fee to course providers to offset the cost of the program, including costs associated with contracts authorized by this subsection. The fee authorized by this subsection shall be in addition to the fees specified in G.S. 58-33-133. As used in this section and in G.S. 58-33-132, "administrator" means any person with whom the Commissioner has contracted under this subsection.

(b) The Commissioner may adopt rules to provide for the continuing professional education of all agents and brokers who are licensed to sell, solicit, and negotiate the kinds of insurance specified in G.S. 58-33-26(c1)(1), (2), (4), (6), (7), or (8). In adopting the rules, the Commissioner may use the same criteria as specified in subsection (a) of this section.

(c) The license of any person who fails to comply with the continuing education requirements under this section shall lapse except that the Commissioner or administrator may either grant an extension of time for good cause shown or charge an administrative fee of seventy-five dollars (\$75.00), or both, in lieu of having the person's license lapse.

(d) Biennial continuing professional education hour requirements shall be determined by the Commissioner, but shall not be more than 24 credit hours. The Commissioner may by rule establish a staggered system in which the credit hour compliance period is based on the month and year of birth of each individual licensee.

(e) Repealed by Session Laws 2007-507, s. 8, effective January 1, 2008, and applicable to fees or charges due, and actions occurring, on or after that date.

(f) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 678, s. 18, effective July 5, 1994.

(g) Repealed by Session Laws 2007-507, s. 8, effective January 1, 2008, and applicable to fees or charges due, and actions occurring, on or after that date.

(h) Any licensee who, after obtaining an extension under subsection (c) of this section, offers evidence satisfactory to the Commissioner or administrator that the licensee has satisfactorily completed the required continuing professional education courses is in compliance with this section.

(i) The Commissioner is authorized to approve continuing professional education courses.

(j) Repealed by Session Laws 2002-144, s. 3, as amended by Session Laws 2003-284, s. 22.2, and as amended by Session Laws 2004-124, s. 21.1, effective July 1, 2002.

(k) Repealed by Session Laws 1993, c. 409, s. 4, effective July 1, 1993. (1989, c. 657, s. 1; 1989 (Reg. Sess., 1990), c. 941, s. 6; 1991, c. 476, s. 2; c. 554, s. 1; c. 720, s. 22; 1993, c. 409, s. 4; 1993 (Reg. Sess., 1994), c. 678, s. 18; 1998-211, ss. 20, 21; 2002-144, s. 3; 2003-284, s. 22.2; 2004-124, s. 21.1; 2007-507, s. 8; 2010-194, s. 9; 2011-326, s. 15(i).)

#### **§ 58-33-132. Qualifications of instructors.**

(a) The Commissioner may adopt rules to establish requisite qualifications for and issuance, renewal, summary suspension, and termination of provider, presenter, and instructor authority for prelicensing and continuing insurance education courses. During any suspension, the instructor shall not engage in any instruction of prelicensing or continuing insurance education courses prior to an administrative review. No person shall provide, present, or instruct any course unless that person has been qualified and possesses a license from the Commissioner or administrator.

(b) The Commissioner or administrator may summarily suspend or terminate the authority of an instructor, course provider, or presenter if the course presentation:

- (1) Is determined to be inaccurate; or
- (2) Receives an evaluation of poor from any Department monitor and a majority of attendees responding to Department questionnaires about the presentation. (1995, c. 517, s. 17; 1999-132, s. 9.1; 2007-507, s. 9.)

#### **§ 58-33-133. Continuing education course provider fees.**

(a) Each course provider shall pay to the Commissioner a fee of one dollar (\$1.00) per approved credit hour per individual who successfully completes a course under G.S. 58-33-130.

(b) At the time a course provider submits an application to the Commissioner for approval of a course under G.S. 58-33-130, the provider shall pay to the Commissioner a filing fee of one hundred dollars (\$100.00) per course up to a two thousand five hundred dollars (\$2,500) per calendar year maximum.

(b1) Licensees who are required to comply with G.S. 58-33-130 shall pay to the Commissioner a fee of one dollar (\$1.00) per credit hour earned. These fees also apply to national designation courses and other courses approved by the Commissioner from other State or federal programs.

(c) Fees collected by the Commissioner under this section and under G.S. 58-33-130 shall be credited to the Insurance Regulatory Fund created under G.S. 58-6-25 for the purpose of offsetting the cost of administering the program authorized by G.S. 58-33-130. (2002-144, s. 2; 2003-221, s. 5; 2003-284, s. 22.2; 2004-124, s. 21.1; 2007-507, s. 10.)

**§ 58-33-135. Continuing education advisory committee.**

(a) The Commissioner shall appoint, in accordance with G.S. 58-2-30, one advisory committee for fire and casualty insurance licensees and one advisory committee for life and health insurance licensees. The advisory committees shall recommend reasonable rules to the Commissioner for promulgation under G.S. 58-33-130. The Commissioner may adopt, reject, or modify such recommendations. After the promulgation of rules under G.S. 58-33-130, the committees may from time to time make further recommendations to the Commissioner for additional rules or changes in existing rules.

(b) The property and liability advisory committee shall comprise:

- (1) Two employees of the Department of Insurance;
- (2) Two representatives from a list of four nominees submitted by the Independent Insurance Agents of North Carolina;
- (3) Repealed by Session Laws 1999-132, s. 6.3.
- (4) One representative of a licensed property and liability insurance company writing business in this State that operates through an exclusive agency force;
- (5) One representative from a list of two nominees submitted by the North Carolina Adjusters Association;
- (6) One representative of property and liability insurers from a list of two nominees submitted by the Association of North Carolina Property and Casualty Insurance Companies; and
- (7) One representative from a list of two nominees submitted by the Community Colleges System Office.

(c) The life and health advisory committee shall comprise:

- (1) Two employees of the Department of Insurance, which may be the same persons appointed under the subsection (b) of this section;
- (2) One representative from a list of two nominees submitted by the North Carolina Association of Life Underwriters;
- (3) One representative of life and health insurers from a list of two nominees submitted by the Association of North Carolina Life Insurance Companies;
- (4) One representative from a list of two nominees submitted by the General Agents and Managers Conference;
- (5) One representative from a licensed medical or hospital service corporation;
- (6) One licensed health insurance agent from a list of two nominees submitted by the North Carolina Association of Health Underwriters;
- (7) One representative of a licensed life or health insurer writing business in this State that operates through an exclusive agency force;
- (8) One representative from a list of two nominees submitted by the North Carolina Fraternal Congress; and
- (9) One representative from a list of two nominees submitted by the Community Colleges System Office. (1989, c. 657, s. 1; 1999-84, ss. 17, 18; 1999-132, s. 6.3.)